

**REMARKS/ARGUMENTS**

Claims 1-11 were pending. Claim 2 has been cancelled. Claims 1, 8-9 and 11 have been amended, and new claim 12 has been added. No new matter has been introduced with this amendment. Reconsideration of the present application is respectfully requested in light of the foregoing amendments and the following remarks.

**Response to Arguments**

Applicant appreciates The Office Action's detailed review of the Applicant's previous arguments filed October 20, 2006. Applicant appreciates that the previous arguments were considered and found persuasive in at least some aspects, although not in every aspect. Applicant respectfully submits the following in response to the Office Action's Responses to the Applicant's previous arguments.

The Office Action cites *In re Fulton*, 391 F.3d 1195, 1201, 73USPQ2d 1141, 1146 (Fed. Cir. 2004) in order to refute the Applicant's previous argument that Kielbowicz (US 5,759,398) teaches away from the modification as suggested by the previous Office Action. Applicant respectfully submits that the case treated by *In re Fulton* is, however, different from the present case in that the modified feature (hexagonal shaped projected surfaces) missing in the first reference "Bowerman" cited by *In re Fulton* was disclosed in a second reference (design patent "Pope") as one of two alternative embodiments. In the present case, on the other hand, the modifications to the Regulatory Guide 1.82 (RG-1.82) needed to arrive at the protective screen claimed in the amended claim 1 of the present application are not disclosed in Kielbowicz. Kielbowicz clearly does not disclose rectangular cassette units having the claimed features but rather discloses cassette units having an annular form. Based at least on this reason Applicant submits that *In re Fulton* does not refute the Applicant's argument of teaching away since the present case is different from the case treated by *In re Fulton*.

The office Action further cites *In re Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971) in order to refute Applicant's argument that Kielbowicz (US 5,759,398) teaches away from the modification as suggested by the previous Office Action. Applicant respectfully submits that the case of *In re Susi* is, however, different from the present case in that in the case of *In re Susi*

the claims were directed to ultraviolet light stabilized polymers wherein a benzylidene malonate acid diester was present as the stabilizing agent. The prior art there disclosed plastic compositions containing ultraviolet light absorbers of a generic formula which overlapped with the claimed benzylidene malonate acid diesters, i.e. prior art included at least some of the compounds recited in the appellant's generic claims. The present case, on the other hand, is not comparable to the case of *In re Susi* since the amended claims of the present application are not directed to chemical compositions but rather to a protective screen having structural features. Moreover, the modular rectangular cassette units recited in the amended claim of the present application are not included in the prior art disclosure of Kielbowicz, since Kielbowicz only discloses annular cassette units. For at least these reasons Applicant respectfully submits that *In re Susi* does not refute the Applicant's previous argument of teaching away since the present case is different from the case treated by *In re Susi*.

The Office Action further states "[a]s to the assertion that Kielbowicz teach a screen that is only one sieve pocket in height, while the claimed invention has a lattice or matrix of screen pockets, it is not clear what distinction Applicant is pointing out. The claimed lattice or matrix of screen pockets is also only one sieve pocket in height." Applicant respectfully disagrees for the reason set forth below. In the presently claimed protective screen, the cassette units each contain spaced apart walls and one or more intermediate walls, i.e. there are at least two rows of screen pockets in each cassette unit of the present invention while Kielbowicz explicitly teaches cassette units each being one sieve pocket in height (col. 2., lines 37-46).

The Office Action further states on page 4 that: "[n]o explicit teaching regarding the modularity of cassette units is required for a skilled artisan in the nuclear art." Applicant respectfully submits that modularity as such is not the main focus of novelty and patentability of the presently pending claims. Applicant respectfully submits that patentability of the presently pending claims resides in part in the combination of features of the modular rectangular cassette units of the having a matrix of screen pockets separated by intermediate walls, wherein the intermediate walls are implemented as double walls providing enhanced outflow from the screen pockets, fluid flow between the double walls and enhanced shape stability to the cassette units and protective screen (e.g. see first paragraph on page 5 of the specification). It is rather this

combination of features of the cassette units which is regarded to be non-obvious, especially since none of the cited references disclose or suggest such a combination.

At least for the reasons set forth above, Applicant respectfully submits that Kielbowicz teaches away from the claimed protective screen.

**Claim Rejections 35 USC § 112**

Claim 8 has been rejected under 35 U.S.C. 112, second paragraph as allegedly being indefinite. Applicant respectfully disagrees for the reasons set forth below. Applicant notes that a review of Fig. 3 and Fig. 5b of the present patent application shows that: 1) any of the spacings between the spaced apart walls and intermediate walls is determined in part by spacer elements disposed between the spaced apart walls and intermediate walls (as recited in claim 8); 2) any of the spacings between the two sides of a double wall is determined by spacer elements disposed between the two sides of the double wall (as recited in claim 11) ; and 3) any of the spacings between the intermediate walls is determined by spacer elements disposed between the intermediate walls (as recited in claim 12).

**Claim Rejections 35 U.S.C. § 103**

Claims 1-11 have been rejected under 35 U.S.C. 103 (a) for allegedly being obvious over Regulatory Guide 1.82 and further in view of Kielbowicz. In order to further the prosecution of the presently pending claims, Applicant has amended independent claim 1 as set forth above. Applicant respectfully submits that claim 1 as amended is patentable over the combination as suggested by the Office Action for reasons set forth below.

The Office Action relies on Reg. Guide RG-1.82 for the proposition that it provides relevant teachings regarding the functionality of the protective screen. Upon extensive review, Applicant notes that Reg. Guide 1.82 requires a minimization of the potential loss of net positive suction head (NPSH) caused by debris blockage and requires that the sump screen design be capable of withstanding loads imposed by accumulation of debris. In other words, Reg. Guide 1.82 merely discloses two requirements of the protective screen, small loss of NPSH and ability of withstanding loads, but RG-1.82 discloses no solutions. Moreover, a third requirement not mentioned in the Office Action is the ability of the protective screen to fit into the limited space available in the sump region of the containment of a nuclear power plant, i.e. that the

protective screen must be flat. Applicant respectfully disagrees with page 6 of the Office Action, where it states that "the foregoing discussion demonstrates that Kielbowicz cures every deficiency of RG-1.82 with regard to claims 1-4, 6-9 and 11 ."

First, Kielbowicz only addresses one of the three requirements mentioned above, namely only the small loss of NPSH. However, Kielbowicz is entirely silent about flat protective screens since it describes and shows only protective screens having a cylindrical outer shape. Moreover, Kielbowicz does neither show a flat structure having enhanced shape stability nor does it mention shape stability since shape stability is mainly a problem of flat screens under load.

Second, the modularity disclosed by Kielbowicz is different from the modularity of the presently claimed protective screen. As set forth above, the presently claimed protective screen includes cassette units each containing spaced apart walls and one or more intermediate walls, i.e. there are at least two rows of screen pockets in each cassette unit of the presently claimed invention while Kielbowicz explicitly teaches cassette units each being one sieve pocket in height (col. 2., lines 37-46). The consequences of this structural difference were explained in detail in the response mailed October 20, 2006 to the USPTO and will not be repeated here to avoid inefficient repetitions. Page 6 of the Office Action, states that: "[a]lthough Kielbowicz defines a single cassette as having only two end wall sections (11 and 12), one may interpret an aspect of the disclosed invention as a compound cassette unit comprised of a plurality of cassette elements, and therefore a plurality of end wall section pairs. These compound cassette units have double walls formed by abutting end wall sections, the wall sections not on the periphery of the compound cassette unit being intermediate walls." Applicant respectfully submits that if this interpretation is to be followed one arrives at the protective screen shown in Fig. 2 of Kielbowicz as the "compound cassette unit" since this is the only unit disclosed by Kielbowicz apart from the earlier described cassette units of one sieve pocket in height. Applicant submits that this so-called "compound cassette unit" is, however, quite different from the cassette units of the presently claimed protective screen, even if one overlooks the fact that the so-called "compound cassette unit" has a cylindrical outer shape while the claimed cassette unit has a rectangular shape. The "compound cassette unit" includes a flange 4 on one side for connecting to a pump

and an end plate 5 closing the central suction chamber 6 on the other side. I.e., the "compound cassette units" can not just be placed in a row in order to form a bigger continuous unit since in the axial direction the flange and connections to the pump are arranged between the individual "compound cassette units." Therefore, a row of "compound cassette units" certainly does not teach or suggest cassette units that are "configurable for placement in a row in order to assemble the screen wall element in the desired size." (as claimed in the amended claim 1 of the present application).

Further, in accordance with MPEP 2141.02 VI, "[a] prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention".

Applicant respectfully submits that portions leading away from the present invention include the cylindrical outer shape of the protective screen disclosed by Kielbowicz and the different structure of Kielbowicz's cassette units as discussed above. Moreover, *In re Hedges*, 783 F.2d 1038, 228 USPQ 685 (Fed. Cir. 1986), citing to *In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965), states that: "[i]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." Here, Applicant respectfully submits that it appears that the Office Action's arguments follow this impermissible approach, in that a certain feature is picked, i.e. the screen pockets, from Kielbowicz while omitting that Kielbowicz as a whole teaches away from the protective screen claimed in the present application since Kielbowicz teaches a cylindrical outer shape of the protective screen and a different structure of the cassette units.

For these reasons Applicant respectfully submits that amended independent claim 1 is patentable over Kielbowicz, the Regulatory Guide, and a hypothetical combination of Kielbowicz and the Regulatory Guide. The dependent claims 3-12 which include every feature and element of amended independent claim 1 are also patentable at least because they depend from a patentable claim.

**CONCLUSION**

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-273-7512 (direct).

Respectfully submitted,



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